

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 03-1076

United States of America,

Appellee,

v.

Luis Herrera-Gonzalez,

Appellant.

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Appeal from the United States
District Court for the Southern
District of Iowa.

[UNPUBLISHED]

Submitted: June 20, 2003

Filed: June 27, 2003

Before BOWMAN, MELLOY, and SMITH, Circuit Judges.

PER CURIAM.

Luis Herrera-Gonzalez pleaded guilty to conspiring to distribute five hundred grams or more of a mixture or substance containing methamphetamine. The District Court¹ sentenced him to 120 months of imprisonment and five years of supervised release. On appeal, counsel has moved to withdraw and filed a brief under Anders v. California, 386 U.S. 738 (1967), arguing that the sentence was too long.

¹The Honorable James E. Gritzner, United States District Judge for the Southern District of Iowa.

We reject this argument. The drug quantity involved in the offense to which Herrera-Gonzalez pleaded guilty subjected him to a minimum of ten years in prison, see 21 U.S.C. § 841(b)(1)(A)(viii) (2000), and that was the term imposed. See United States v. Vong, 171 F.3d 648, 654 (8th Cir. 1999) (explaining that by pleading guilty, defendant admitted all factual allegations made in indictment); cf. United States v. Chacon, No. 02-3008, 2003 WL 21295098, at *1 (8th Cir. June 6, 2003) (holding that district court properly granted government's motion to correct sentence where court originally sentenced defendant below statutory minimum and only avenues for departure were not open to defendant).

Upon reviewing the record independently under Penson v. Ohio, 488 U.S. 75 (1988), we have found no nonfrivolous issues. Accordingly, we affirm. We also grant counsel's motion to withdraw.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.